

Texas Department of Insurance Division of Workers' Compensation



Physical Medicine Services (Functional Capacity Evaluations) Plan-Based Audit

March XX, 2015

Section I: General Statement and Overview

The Texas Department of Insurance, Division of Workers' Compensation (DWC) is required by Texas Labor Code §413.002 to "monitor health care providers, insurance carriers, independent review organizations, and workers' compensation claimants who receive medical services to ensure the compliance of those persons with rules adopted by the Commissioner relating to health care, including medical policies and fee guidelines." Furthermore, Texas Labor Code (TLC) §413.0512 allows the Medical Quality Review Panel (MQRP) to recommend to the medical advisor appropriate action regarding doctors, other health care providers, insurance carriers, utilization review agents, and independent review organizations. The DWC will manage the medical quality review process in a manner that is fair to all workers' compensation system participants, open, and transparent to the extent consistent with state confidentiality laws, and provide the subject of a review the opportunity to participate throughout the review process as set forth in the Medical Quality Review Process. Medical quality reviews aid the DWC both to monitor compliance with the Texas Workers' Compensation Act (Act) and DWC Rules and to help ensure that injured employees in the workers' compensation system receive medically necessary and appropriate health care that is timely and cost-effective, and facilitate functional recovery and appropriate return-to-work outcomes.

TLC §413.018(c) mandates that the DWC implement a program to encourage employers and treating doctors to discuss the availability of modified duty to encourage the safe and more timely return to work of injured employees. This section further states that the DWC may require a treating or examining doctor, on the request of the employer, insurance carrier, or division, to provide a functional capacity evaluation (FCE) of an injured employee and to determine the employee's ability to engage in physical activities found in the workplace or in activities that are required in a modified duty setting. 28 Texas Administrative Section 134.204(g) lists the required elements when conducting an FCE.

Section II: Purpose for Plan-Based Audit

- Promote the delivery of quality health care in a cost-effective manner, including protection of injured employee safety;
- Ensure that health care providers had a legitimate reason to order the FCE; and
- Determine the appropriateness of medical decision making and/or appropriateness of RTW efforts.

Section III: Scope and Methodology for Plan-Based Audit

- Health care providers who have referred injured employees for FCEs:
 - where the health care provider was listed as the referring provider on the CMS-1500 form as reported through Medical State Reporting data pursuant to 28 Texas Administrative Code Chapter 134, Subchapter I (i.e., Medical EDI data);
 - where the FCE was billed with Current Procedural Terminology (CPT) code 97750 and a modifier of FC; and

- where the FCE was performed from January 1, 2013 through December 31, 2014:
- FCEs will be identified by the CPT code as billed by health care providers and reported through Medical Bill Reporting.
- The procedure for determining the medical necessity and appropriateness of health care services is set forth in Section II of the Medical Quality Review Process. See also TLC §413.002, 413.013, and 413.05115.

Section IV: Selection Criteria for Plan-Based Audit

- Time frame to select data:
 - Subjects will be selected based on FCEs performed between January 1, 2013 and December 31, 2014.
 - Cases will be selected based on FCEs performed between January 1, 2014 and December 31, 2014.
- Exclusions:
 - Exclude FCEs requested by designated doctors where the designated doctor was asked to address return-to-work issues.
 - Exclude FCEs the DWC required the doctor to perform.
- Subject Selection:
 - Select no more than 10 health care providers who have referred injured employees for FCEs that had the highest number of FCE bills per the selection criteria.
- Case Selection:
 - Randomly select no more than 7 cases per each health care provider based on FCEs performed between January 1, 2014 and December 31, 2014.

Section V: Roles and Responsibilities

Information Management Services (IMS)

- Provides a list of health care providers based on the scope, methodology, and selection criteria.
- Selects the subjects and case files for medical quality review based on selection criteria.

Health Care Quality Review (HCQR), Division of Workers' Compensation

- Notifies subjects chosen for medical quality review and requests documents.

- Requests from IMS another subject or case if the nurse investigator verifies in writing that a subject or case was not selected in accordance with the approved plan-based audit criteria.
- Selects MQRP members to perform a review in accordance with TLC §§408.0043, 408.0044, and 408.0045 and 28 TAC §§180.1 and 180.22.
- Provides an Executive Summary to the Commissioner of Workers' Compensation upon conclusion of the plan-based audit.

Medical Advisor, Division of Workers' Compensation

- The Medical Advisor shall develop questions for the MQRP Experts. Those questions shall be approved by all undersigned parties prior to any records being sent to the MQRP Experts.

Section VI: Conflicts

This Functional Capacity Evaluation plan-based audit incorporates the approved Medical Quality Review Process in effect. However, if a specific conflict exists between this plan-based audit and the Medical Quality Review Process, this plan-based audit prevails.

Section VII: Approvals

This Functional Capacity Evaluation Plan-Based Audit is respectfully submitted by:

David G. Davis, M.D.
Medical Advisor

Date

This Functional Capacity Evaluation Plan -Based Audit is respectfully approved by:

W. Ryan Brannan
Commissioner of Workers' Compensation

Date